

Serial No.: 09/715,725
Filing Date: November 16, 2000

REMARKS

Claims 26-30 are pending and are reproduced in the attached sheet entitled, "Pending Claims". This reply is in response to the Restriction Requirement mailed 17 July 2002. The Restriction Requirement appears to be obviously in error, as it groups claims by sequences they do not recite. A discussion of this matter follows.

RESPONSE TO RESTRICTION

In the Restriction mailed 17 July 2002, Claims 26-30 were restricted between 10 inventive groups on the basis of multiple sequence restrictions, as follows:

Groups 1-5, Claims 26, 27, 29, and 30, drawn to nucleic acid sequence 1, 3, 5, 7, and 9, respectively;

Groups 6-10, Claim 28, drawn to amino acid sequence 2, 4, 6, 8, and 10, respectively.

First, Applicants respectfully point out that Claims 27-30 do not recite SEQ ID NOs: 1, 3, 5, 7, or 9. Rather, these claims are drawn to amino acid sequences set forth by SEQ ID NOs: 2, 4, 6, 8, and 10. The restriction requirement therefore appears to be obviously in error.

Second, Applicants emphasize that the amino acid sequences recited in the instant claims describe ING2 splice variants, which are clearly related in amino acid sequence. Further, Applicants point out that SEQ ID NO:8, corresponding to ING2 isoform 4, comprises the amino acid sequences of the other ING2 isoforms (1-3 and 5; SEQ ID NOs: 2, 4, 6, and 10, respectively). Similarly, SEQ ID NO:7, corresponding to ING2 isoform 4, comprises the nucleic acid sequences of the other ING2 isoforms (1-3 and 5; SEQ ID NOs: 1, 3, 5, and 9, respectively).

The Examiner's attention is respectfully drawn to M.P.E.P. §802.01 which defines the meaning of "independent" and "distinct", which definitions do not support a restriction

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between ING2 isoforms 1-5. In addition, given their sequence similarity, the search burden would not be serious, and thus under M.P.E.P. §803, the search should be performed.

The Examiner's attention is also respectfully drawn to M.P.E.P. §2434, which states that the U.S.P.T.O. Commissioner has partially waived the requirements of 37 C.F.R. §1.141 and will examine up to 10 independent sequences in a single application without restriction.

Applicants submit that at a minimum, Claims 27-30 drawn to SEQ ID NO:8 should be examined together. Further, Applicants submit that Claims 27-30 drawn to SEQ ID NOs:2, 4, 6, 8, and 10 should be examined together, given that the relatedness of the amino acid sequences does not support restriction between the claims as drawn to each sequence individually. Finally, Applicants submit that it would not be a burden to search Claim 26 with Claims 27-30, as the nucleic acid sequences recited in Claim 26 encode the amino acid sequences recited in Claims 27-30 and are thus clearly related thereto. Moreover, the relatedness of the recited nucleic acid sequences does not support restriction between claim 26 as drawn to each nucleic acid sequence individually.

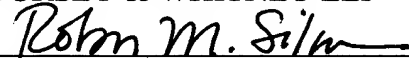
Accordingly, Applicants respectfully request withdrawal of the restriction requirement and examination of Claims 26-30 on the merits.

CONCLUSION

Applicant is unable to respond to the restriction requirement by electing a restricted group, as the restriction appears to clearly be in error. Should a corrected restriction between claims 26-30 based on sequences be forthcoming, Applicants provisionally elect Claims 27-30, drawn to SEQ ID NO:8, with traverse as discussed above.

Respectfully submitted,

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submitted under 37 C.F.R. 1.34(a)

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